IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7211 OF 2005

Shri Vithal Tukaram Tupade ..Petitioner

Vs.

The State of Maharashtra
and ors. ..Respondents

Mr. S.G. Kudle for petitioner.
Mr. Vinay Sonpal, AGP for respondent nos.1 and 3.
Mr. Vijay Killedar i/b Mr. Nitin Jamdar for respondent nos.4 and 5.
Mr. A.R. Metkari for respondent no.6.

CORAM: B.H. MARLAPALLE &
N.H. PATIL, JJ.

Date : September 04, 2006.

P.C.:

1. Heard Mr. Kudle, the learned counsel for the petitioner. Perused the affidavit in reply filed by Mr.Arun Dhaware, Assistant Field Officer from the Office of the Maharashtra State Council of Educational Research and Training at Pune.

2. Admittedly, the petitioner did not possess the qualifications of D.Ed. and only on the basis of the S.C.C. qualification he was appointed as a Shikshan

Sevak. It is not that the petitioner comes from any reserved categories and, therefore, at the first instance it was not permissible for the respondent-management to appoint the petitioner as the Shikshan Sevak.

3. On the basis of such an appointment the petitioner's application was forwarded for admission to the Postal D.Ed. Office and the authorities did not favour the petitioner and hence this petition.

4. The affidavit in reply has referred to the Government Resolutions issued on 5/2/1999, 2/6/2000, 11/7/2000 and 27/2/2003 as well as the letter dated 2/7/2004 issued by the State Government. The first GR dated 5/2/1999 is based on the Division Bench decision in the case of Shailaja Ashokrao Walse vs. State of Maharashtra and ors. **[1999 (1) Mh.L.J. 291]**. It is pointed out that the petitioner is not qualified/eligible for being admitted to the Postal D.Ed. Course. We do not find any reason to issue a writ under Article 226 of the Constitution and allow the petitioner to seek admission in the Postal D.Ed.

Course when he is not eligible. Mr. Kudle, the learned counsel for the petitioner submitted that this is a last chance for the petitioner and it is not his fault that he was appointed as Shikshan Sevak. The illegalities cannot be allowed to be perpetuated and public policy does not permit the respondents to consider the case of a candidate who is otherwise not eligible.

5. Hence, the petition is rejected summarily.

(N.H. Patil, J.) **(B.H. Marlapalle,J.)**